

Department of State Revenue

Audit Gram Number IR-011

June 1, 1999

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**Issue**

Modification of Federal Income Tax – Refund.

**Authority:** IC 6-3-4-6(b), IC 6-8.1-5-2(f), IC 6-8.1-9-1(g) and (f), 45 IAC 3.1-1-94 [FN1 Current rule does not reflect the 1998 amendment IC 6-3-4-6(b)]

**IC 6-3-4-6. Copies of federal returns; notice of modification...**

(b) Each taxpayer, ~~except a resident individual~~, shall notify the department of any modification of:

- (1) a federal income tax return... or
- (2) the taxpayer's federal income tax liability...

The taxpayer shall file the notice, on the form prescribed by the department, within one hundred twenty (120) days after the modification is made.

[1977 text prior to 1998 amendment effective Jan. 1, 1998]

I. General Statement.

Every taxpayer, including a resident individual after January 1, 1998, is required to notify the Department within 120 days of a modification of a federal income tax return or liability. A federal modification which results in a Indiana tax overpayment will be refunded provided the claim is timely filed on a form prescribed by the Department.

II. The Date "Modification Is Made" - Defined.

A. Internal Revenue Service Field Examination.

A modification of a taxpayer's federal income tax return or liability is made on the date the taxpayer is furnished with a report of the examiner's findings, as approved after appropriate IRS review, including an explanation of the appeals process. This event is generally referred to as the receipt of a "30 day letter", (Letter 950) [FN1 See 26 CFR § 301.7430 and 601.105. "Internal Revenue Service, Procedure and Administration"]

A modification of a taxpayer's federal income tax return or liability is made if, at the completion of a field examination, the taxpayer executes Form 870, "Consent to Assessment", or such other form indicating taxpayer agreement.

B. Internal Revenue Service Office Examination.

A modification to a taxpayer's federal income tax return or liability is made on the date the taxpayer is furnished with a report of the office examiner's findings including an explanation of the appeals process.

### III. Time Limitation - Refund.

#### A. Before January 1, 1999.

An overpayment resulting from a modification of a federal income tax return or liability must be claimed within 120 days of the date the taxpayer is notified of the modification by the IRS with the following exceptions:

##### 1. Federal Extension.

a) **Prior to January 1, 1998** – If the federal assessment limitation period has been extended by agreement with the IRS [FN2 Form 872; "Consent to Extend Time to Assess Tax"] and a federal modification results in an Adjusted Gross Income Tax overpayment, the refund must be claimed within the later of 6 months after the expiration of the federal agreement or 120 days after federal notification.

#### IC 6-8.1-5-2 Time limitation on issuing proposed assessment.

(f) If the taxpayer and the... (IRS)... consent in writing to an assessment of... tax... (after the due date)... then the date by which the department must issue a proposed assessment... is extended to six (6) months after the end of the... (federal extension)...

[1989 amendment effective through December 31, 1997]

##### b) January 1, 1998 to December 31, 1998.

The 1989 amendment to the assessment statute IC 6-8.1-5-2(f) upon which the Department relied to justify an additional 6 month after the expiration of the federal extension to file a refund claim, was repealed effective December 31, 1997.

The Department will continue to allow this additional 6 months period until December 31, 1998, after which the execution of a federal extension is no longer relevant.

2. **State Extension.** If the state assessment limitation period has been extended by agreement with the Department [FN3 Form AD-10, "Agreement to Extension of Time"] and a federal modification results in an Adjusted Gross Income Tax overpayment, the refund must be claimed within the later of the expiration of the state extension or 120 days after federal notification.

#### B. Effective January 1, 1999.

1. **Generally.** An overpayment resulting from a modification of a federal income tax liability must be claimed within the later of the 3 year period prescribed in IC 6-8.1-9-1(a), or within 6 months of the taxpayer's notification of the modification by the IRS.

An overpayment resulting from a modification of a federal income tax return which does not result in a change in the federal income tax liability for the period, must be claimed within the period described in section III. A herein.

#### IC 6-8.1-9-1. Filing of claim; time limitation...

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a) [FN4 "Three years from the latter of the due date of the return or the date of payment"]; or

(2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

[1998 amendment added subsection (f) effective January 1,1999]

**2. State Extension.** If the state assessment limitation period has been extended by agreement with the Department and a federal modification results in an Adjusted Gross Income Tax overpayment, the refund must be claimed within the later of the expiration of the state extension or 6 months after notification of the federal modification.

#### **IC 6-8.1-9-1. Filing of claim; time limitation...**

(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(e), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

[1998 amendment added subsection (g) effective January 1,1999]

#### **IV. "On The Form Prescribed By The Department" Defined.**

The form prescribed by the Department for notification of a modification of a federal income tax return or liability which results in a tax overpayment is an amended income tax return, or a "Claim for Refund", Form GA110L, a/k/a Form 615.

#### **V. "Tax Legally Due" Defined.**

A filed Claim for Refund resulting from a modification of the taxpayer's federal income tax return or liability may include all taxes paid for, or credited to, a liability required to be reported on an Indiana income or franchise tax return. Taxes include the "Listed Taxes", IC 6-8.1-1-1, and any penalties or interest previously paid.